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No. 01-1437

IN THE
Supreme Court of the United States

BEATRICE BRANCH, *et al.*,
Appellants,

v.

JOHN ROBERT SMITH, *et al.*,
Appellees.

On Appeal from the United States District Court for the Southern District of Mississippi

BRIEF AMICI CURIAE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, LAWYERS' COMMITTEE FOR CIVIL RIGHTS OF THE SAN FRANCISCO BAY AREA, AND CONGRESSIONAL BLACK CAUCUS IN SUPPORT OF APPELLANTS

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INTEREST OF THE AMICI CURIAE[1]

The National Association for the Advancement of Colored People ("NAACP") is a nonpartisan, nonprofit organization with a substantial number of members nationwide. The NAACP has chartered affiliates in the State of Mississippi. Since its founding in 1909, one of the principal goals of the NAACP has been to insure that minority group citizens have an equal and fully effective opportunity to participate in the political process and to elect representatives of their choice. The NAACP has fought for passage of the Voting Rights Act of 1965 and, thereafter, has sought to ensure the voting rights of racial minority voters through legislative advocacy and litigation.

The Lawyers' Committee for Civil Rights of the San Francisco Bay Area ("Lawyers' Committee (SF)") is a civil rights and legal services organization devoted to advancing the rights of people of color, low-income individuals, immigrants and refugees, and other underrepresented persons. The Lawyers' Committee (SF) is affiliated with the Lawyers' Committee for Civil Rights Under Law. The Lawyers' Committee (SF) has a keen interest in proper implementation of Section 5 of the Voting Rights Act and protecting against retrogression of minority voting interests. Indeed, the Committee successfully represented minority citizens in two of the more recent §5 cases decided by this Court. See, *Lopez v. Monterey County*, 519 U.S. 9 (1996) and *Lopez v. Monterey County*, 525 U.S. 266 (1999).

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[1] The parties have consented to the filing of this brief. Their letters of consent are on file with the Clerk of this Court. Pursuant to Rule 37.6, *amici* certify that no counsel for any party authored this brief in whole or in part. No persons other than the *amici curiae* or their counsel made a monetary contribution to the preparation or submission of this brief.

The Congressional Black Caucus ("Caucus") was formed over thirty years ago with the goals of seeking to positively influence the course of events pertinent to African-Americans and others of similar experience and situation, and to achieve greater equity for persons of African descent in the design and content of domestic and international programs and services. The Caucus has not only been at the forefront of issues affecting African-Americans, but has garnered international acclaim for advancing agendas aimed at protecting human rights and civil rights for all people. Today, the Congressional Black Caucus has 38 members.

INTRODUCTION AND SUMMARY OF ARGUMENT[2]

Under Section 5, 42 U.S.C. §1973c, the Attorney General has sixty days to make a preclearance determination under Section 5 of the Voting Rights Act. The record below shows that although the Attorney General possessed all information necessary to make the limited determination that Section 5 authorizes him to make (*i.e.*, whether the redistricting plan was free of a racially discriminatory purpose or effect), he failed to do so. While the Department of Justice did ask the State to provide information about the operation of its chancery court system within the initial sixty days, the information sought not only was irrelevant to a review of the State's congressional redistricting plan, but it was also inconsistent with the approach taken by the Attorney General in other states subject to Section 5. *Amici's* position herein is that a congressional map drawn by a Mississippi state court was submitted by the State of

[2] *Amici* in this brief address only the issue of the effect of the Attorney General's delay in reviewing Mississippi's congressional redistrcitng plan. Amici support appellants' arguments that the state court in Mississippi had jurisdiction to decide the congressional redistricting case before it and to impose a congressional redistricting plan in the absence of the Mississippi Legislature enacting a plan.

Mississippi to the Attorney General for preclearance under Section 5 of the Voting Rights Act, and was precleared by operation of law when he failed to object to the map or ask for relevant information within sixty days.[3]

Congress designed the Voting Rights Act in 1965 "to banish the blight of racial discrimination in voting, which has infected the electoral process in parts of our country for nearly a century." *South Carolina v. Katzenbach*, 383 U.S. 301, 308 (1966). The most potent weapon in the Act was Section 5, which required covered jurisdictions to submit all voting-related changes to either a special three-judge federal court in the District of Columbia or to the United States Attorney General before such voting changes may be implemented.

Section 5 is an extraordinary measure. Voting changes are legally unenforceable "unless and until" preclearance of the changes is obtained. "Congress had found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting, because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits." *Id.*, at 329. Consequently, this Court upheld Congress' power to design Section 5 in a manner that would "shift the advantage of time and inertia from the perpetrators of the evil to its victims." *Ibid.* Mississippi and its political subdivisions have been subject to the preclearance

[3] *Amici* also agree with appellants that even if the Attorney General's request for additional information about the operation of the state chancery court system in Mississippi and the propriety and authority of those courts to rule in congressional cases tolled the sixty day clock under Section 5, the plan was later precleared when the Attorney General failed to interpose an objection to the plan by April 22, 2002, the sixtieth day after the State responded with additional information.

requirements of Section 5 since the effective date of the Act, *viz*. November 1, 1964.[4]

Although each and every voting change made by covered jurisdictions carries with it some political consequence, and many are motivated by political concerns, Section 5 is a statute designed and intended by Congress to protect voters from discrimination based on race and language minority status. Thus, the role assigned by Congress to the Attorney General is to use his authority under Section 5 to guard against racial discrimination in voting by reviewing each and every change to insure that they are free of the proscribed purpose and effect.[5]

Given the Attorney General's special role under Section 5, and the potential for those who enact voting and voting-related changes to be motivated by partisan concerns when such laws are passed, it is critical that the Attorney General confine his review to the racial purpose and effect of voting changes, and not insinuate himself into the political process that may have motivated a bill's passage. Moreover,

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[4] Since enactment of the Voting Rights Act in 1965 and 2001, the United States Department of Justice has reviewed 371,544 voting changes under Section 5. See http://www.usdoj.gov/crt/voting/sec_5/changes.htm.

[5] The underlying purpose of Section 5 was explained in *Beer v. United States*, 425 U.S. 130, 140-41 (1976):

> By prohibiting the enforcement of a voting-procedure change until it has been demonstrated to the United States Department of Justice or to a three-judge federal court that the change does not have a discriminatory effect, Congress desired to prevent states from "undo[ing]" or "defeat[ing] the rights recently won" by Negroes. H.R. Rep. No. 91-397, p. 8. Section 5 was intended "to ensure that [the gains thus far achieved in minority political participation] shall not be destroyed through new [discriminatory] procedures and techniques." S. Rep. No. 94-295, p. 19.

partisan interests often resort to litigation, and use the Voting Rights Act to advance their political goals. In such cases, it is especially important that the Attorney General strictly adhere to the time period prescribed by Congress in the preclearance process (*i.e.*, sixty days to review voting changes) to avoid giving advantage to those advancing partisan interests in the courts. He must remain above the political fray and review the voting changes for nondiscrimination in a timely manner--the precise and limited role that Congress intended. When the Attorney General has found no cause to object to a redistricting plan that is submitted for preclearance, he is duty-bound to preclear it. Unfortunately, that is not what happened here.

In this case, the Attorney General failed to fulfill his duty under the Voting Rights Act. Instead, he used his unique power under the Voting Rights Act to delay approval of a congressional redistricting map produced by a Mississippi state court thereby, rendering that plan legally unenforceable. His delay was unrelated to any legitimate purpose under the Voting Rights Act. During the delay, the Mississippi Republican Party obtained a federal court order imposing a congressional map that would become effective in the event the state court map failed to receive Section 5 preclearance by a date certain. The Mississippi Republican Party hoped that the preclearance process would be so delayed that the federal court map preferred by them would go into effect. Those hopes were realized as a result of the Attorney General's delay.

Amici do not make these arguments lightly. Indeed, over thirty-five years of experience with career professionals at the Department of Justice has taught *amici* great respect for that office and the voting rights protections that the Department of Justice has obtained. But where the Department of Justice's actions in enforcing Section 5

elevate the partisan interests of political actors over the interests of protecting minority voters, as happened here, the preclearance process is perverted and the crown jewel of civil rights, the Voting Rights Act, is tarnished. This Court must rectify that damage. Indeed, because the Attorney General's decision to preclear is not reviewable, *Morris v. Gressette*, 432 U.S. 491 (1977), there is no other way to address the Justice Department's use of technical, procedural maneuvers during the preclearance process unless this Court reviews those actions to determine whether they are beyond the scope of Section 5 and its implementing regulations.

Amici offer this final observation. In the case before this Court, the State of Mississippi promptly submitted its congressional redistricting plan for Section 5 preclearance. It did so almost immediately after the plan had been ordered into effect. Having done so, the State was entitled to a decision on the merits of its plan. Instead, it encountered a Department of Justice that reviewed Mississippi's plan not with an eye toward whether minority voters were protected, but rather with a focus on the national political implications of the congressional map. *Amici* are concerned that absent strong admonition from this Court, the Voting Rights Act will become a tool of partisan operatives rather than the potent weapon to combat racial discrimination that Congress intended when it enacted the Voting Rights Act 37 years ago. Misuse of the statute and the preclearance process not only could jeopardize its rightful use in the future, but it also has the potential to cause great harm to those persons that the Voting Rights Act was designed to protect--minority voters.

Accordingly, because the Attorney General failed to object within the statutorily-required 60-day period, this Court should reverse the decision of the three-judge court and declare the state court plan the valid and precleared congressional redistricting plan in Mississippi.

ARGUMENT

THE ATTORNEY GENERAL'S AUTHORITY UNDER THE VOTING RIGHTS ACT IS TARGETED TO PROTECTING MINORITY VOTING RIGHTS.

A. THE ATTORNEY GENERAL IMPERMISSIBLY DELAYED THE PRECLEARANCE PROCESS.

"The Voting Rights Act of 1965 reflects Congress' firm intention to rid the country of racial discrimination in voting," and, to effectuate this intention, Congress "marshaled an array of potent weapons against the evil, with authority in the Attorney General to employ them effectively." *South Carolina v. Katzenbach*, 383 U.S. 301, 315, 337 (1966).

Section 5 of the Voting Rights Act, known as the preclearance provision of the Act, provides that a covered jurisdiction--when it seeks to obtain administrative, rather than judicial, clearance for a voting change--may not enforce the change until it has been submitted to the Attorney General and he "has not interposed an objection within sixty days after such submission* * *." A change is not effectively "submitted" so as to commence the 60-day review period until the covered jurisdiction has provided the Attorney General with all information necessary for him to make an informed judgment whether the change is free of a racially discriminatory purpose or effect. *Georgia v. United States*, 411 U.S. 526, 536-541 (1973).

In *Georgia v. United States, supra,* this Court specifically upheld the Attorney General's right to request additional information. In that case, the Attorney General, two weeks after Georgia submitted its redistricting plan for review, asked for additional information about the plan. The Attorney General then interposed an objection to the plan

within sixty days of receiving the additional information he had requested, but not within sixty days of the state's initial submission. This Court rejected Georgia's claim that the redistricting plan had been precleared because the Attorney General had not acted within sixty days of the initial submission.

In upholding the Attorney General's right to make a request for relevant information about voting changes that are pending before him for preclearance, this Court did not condone abuse of the Act or its regulations by the Attorney General. Indeed, the Court specifically noted that the Attorney General, in conducting his administrative review under Section 5, should not resort to "unwarranted administrative conduct" that produces "frivolous and repeated delays"—such as demanding "unnecessary or irrelevant information." See 411 U.S. at 540, 541 n.13. Indeed, the Attorney General is not authorized to drag out the preclearance process under Section 5 by repeatedly asking for additional information. *Garcia v. Uvalde County, Texas*, 455 F. Supp.101, 105 (W.D. Tex. 1978)(three-judge court), *sum. aff'd sub nom., United States v. Uvalde County*, 439 U.S. 1059 (1979) (mem.). (Section 5 submission process "was 'dragged out' by the Attorney General's office over a 205 day period through the 'request for additional information' procedure").

As a general matter, the Attorney General infrequently asks for more information. Indeed, the Attorney General has asked for more information only three times in the post-2000 cycle in his administrative review of thirty-three statewide plans submitted by the covered States subject to Section 5. The three statewide plans to which the Attorney General asked for more information during this most recent round of

redistricting were: the Arizona legislative plan, the Louisiana state senate plan, and the Mississippi congressional plan.[6]

Amici do not question this Court's decision in *Georgia v. United States* or the right of the Attorney General to ask for more information about the voting changes that are pending before him for administrative review. When a covered jurisdiction submits the bare text and history of the legislation enacting a voting change, such information will be insufficient to enable the Attorney General to assess the purpose and effect of the change, especially when a complex voting change such as a redistricting map is being reviewed. But the right to request additional information does not give *carte blanche* authority to the Attorney General under Section 5 to extend the 60-day statutory review period by either seeking irrelevant information or by making "repeated requests for additional information." *Garcia v. Uvalde County, Texas*, 455 F. Supp.101, 104-06 (W.D. Tex. 1978)(three-judge court), *sum. aff'd sub nom., United States v. Uvalde County*, 439 U.S. 1059 (1979) (mem.). See also, *Georgia v. United States*, *supra*, at 540-41. This rule gives submitting authorities some reasonable certainty with respect to *when* they can expect to receive a decision from the Attorney General. This is especially critical if a submitting authority is seeking preclearance reasonably close to an upcoming election or the candidate-qualifying period, as is often the case with a redistricting plan.

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[6] Using the preclearance letters relating to all state-wide plans that have been adminsitratively precleared by the Attorney General under Section 5 in the post-2000 cycle, *amici* have compiled a chart listing pertinent dates of all plans submitted, and the length of time it took the Attorney General to issue his preclearance determination once he had received all information from the states. This chart is set forth in the appendix to this brief as App. A.

Mississippi submitted its congressional redistricting plan to the Attorney General on December 26, 2001, and asked for expedited consideration. With candidate qualifying set to begin on March 1, 2002, and a three-judge federal court indicating it would assert its jurisdiction over congressional redistricting absent timely preclearance of the state court plan, Mississippi asked the Attorney General to make the Section 5 determination on or before January 31, 2002.[7] Thus, the sixty-day clock began to run on December 26, 2001, and expired on February 25, 2002. By the latter date, the Attorney General was required either to ask for additional relevant information about the redistricting plan or interpose an objection to it. As shown below, he did neither.

The Attorney General did send a letter to Mississippi on February 14, 2002, requesting certain information, but the information sought from Mississippi had nothing to do with whether the redistricting plan was retrogressive in either its purpose or its effect. Indeed, the Attorney General's letter specifically acknowledged that "the Department is not formally seeking additional information regarding the redistricting plan[.]" Instead, the Attorney General concluded that because the congressional plan had been drawn pursuant to orders entered by Mississippi's Chancery Court and State Supreme Court, the plan was "directly related" to those orders and thus it "would be inappropriate for the Attorney General to make a determination concerning the congressional redistricting plan adopted by the Chancery Court."

[7] The Section 5 guidelines issued by the Attorney General provide in pertinent part: "When a submitting authority demonstrates good cause for expedited consideration, the Attorney General will attempt to make a decision by the date requested. However, the Attorney General cannot guarantee that such consideration can be given." 28 C.F.R. 31.54(b).

The Attorney General's February 14 letter then proceeded to ask Mississippi to provide information totally unrelated to the purpose or effect of the redistricting plan. For example, the letter asked the State to provide information about: the "nature and structure" of the state's judiciary; the "legal basis" for a decision of the Mississippi Supreme Court; the jurisdictional authority of Mississippi chancery courts; the number of chancery court judges in the state and the racial composition of those judges; details about how chancery court judges are elected; "safeguards in place to ensure that a particular Chancery Court judge who creates and imposes a state-wide redistricting plan has him/herself been selected in a manner reflecting the political influence of the State's minority population"; and "existing legal procedure that would prevent a potential litigant from 'forum shopping.'"[8]

The record unambiguously shows that although he admittedly possessed all of the information he needed to review the Mississippi congressional plan that had been ordered into effect by the Mississippi state court, the Attorney General refused to make the required preclearance determination. *Amici* submit that this was "unwarranted administrative conduct" (*Georgia v. United States, supra,* 540-41) that was beyond the authority of the Attorney General's limited role under Section 5.

That the congressional map ordered into effect by the Mississippi Chancery Court met the requirements of Section

[8] Although the Department of Justice Guidelines under Section 5 require state and local governments to advise the Attorney General of the "statutory or other authority under which the jurisdiction undertakes the change," (28 C.F.R. 51.27(h)), *amici* are aware of no other preclearance submissions made under Section 5 of the Voting Rights Act in which the Attorney General ever questioned the jurisdiction or authority of a state court to act.

5 is free from doubt. Under the benchmark plan for measuring retrogression under Section 5 (*i.e.*, the "old" plan), Mississippi had one congressional district that provided black voters in the state with an effective opportunity to elect the candidate of their choice, District 2. The plan drawn by the chancery court maintained District 2 as a district that would continue to provide an effective opportunity for black voters to elect a candidate of choice with a 59% black voting age population (BVAP).

The Attorney General knew that his delay in issuing a preclearance decision would have legal consequences. The federal court had made clear that it intended to order its own congressional redistricting plan into effect absent timely preclearance of the chancery court's plan. Indeed, on February 14, 2002, the same day that he wrote to the State of Mississippi refusing to make a Section 5 determination about the plan and asking for unrelated information, the Attorney General wrote to the Chief Justice of the Mississippi Supreme Court advising him that a three-judge federal court had "recently ordered implementation of its own redistricting plan for the upcoming congressional election, 'absent the timely preclearance of the redistricting plan adopted by the State Chancery Court.'" [9]

[9] The Attorney General's communication to the Mississippi Supreme Court was unusual, to say the least. The Attorney General was not a party to those proceedings, had not participated in the state court trial proceedings as a party or *amicus curiae*, and had not participated in the federal court case. Instead, he chose to insinuate himself in the process by raising concerns about the validity of the chancery court decision, and the propriety of the State's judiciary issuing redistricting decisions. *Amici* are unaware of any similar action taken by the Attorney General during a Section 5 review process in the 37 years of the Act's existence. Indeed, in view of his prompt and unquestioning review of a redistricting plan issued by a state court in North Carolina just a few months later, see pp. 15-18, *infra*, it appears that the Attorney General's handling of the Mississippi submission was unique.

But the Attorney General's refusal to grant preclearance to Mississippi's congressional map also had political consequences. Failure to meet the federal court's preclearance deadline meant that the federal court's map, which had been advocated by the Mississippi Republican Party in the federal litigation, would become the congressional redistricting plan in the 2002 elections and beyond. The federal court's map, like the chancery court's map, maintained District 2 as an effective minority district and paired the same two incumbents (Reps. Shows-D and Pickering-R) in another district (District 3). But it was in the configuration of this latter district that the federal court's map differed significantly from the chancery court's map.

The Shows-Pickering district under the state court's map contained a substantial black voting age population (BVAP) of 37.53%. Under the federal court's map, the BVAP in the Shows-Pickering district was 30.37%. Furthermore, whereas the state court's map had paired these two incumbents in a district that was regarded as either leaning Democrat or a political toss-up, the federal court's map placed Reps. Shows and Pickering in a district that was widely viewed as giving Pickering the advantage. See, *e.g.*, Thomas B. Edsall, *Federal Panel Imposes Miss. Redistricting Plan; Outcome Favors Republican Rep. Pickering*, The Washington Post, February 27, 2002, at A2; Thomas B. Edsall, *Democrats Challenge Justice's Redistricting Review in Miss.*, The Washington Post, February 16, 2002, at A2 (quoting Rep. Pickering's campaign manager as saying that the Justice Department's delay in granting preclearance "increases the likelihood that the pro-Pickering federal court plan will be used in the 2002 elections"); and Stuart Rothenberg, *Rothenberg's Ramblings:*

Politics from California to Mississippi, Roll Call, March 1, 2002.

The similarity of the Attorney General's February 14, 2002 letter with the arguments being made by the Mississippi Republican Party in the litigation is striking. Indeed, the items requested of Mississippi by the Attorney General and the concerns he expressed about the propriety of the chancery court issuing a redistricting plan--notwithstanding an express ruling by the Mississippi Supreme Court that the chancery court did possess such authority--seem to have been taken directly from arguments contained in the pleadings filed by the Mississippi Republican Executive Committee in the litigation and in letters sent to the Department of Justice.

For example, on January 11, 2002, the Mississippi Republican Party Executive Committee ("Committee") filed a submission to the three-judge court attaching a letter the Committee had sent to the Attorney General expressing their opposition to preclearance of the chancery court plan. The Committee's January 11th submission questioned the basis for the Mississippi's Supreme Court's decision, claiming that the "Supreme Court has given no explanation for the submitted change[.]" The Attorney General's February 14th letter asked the State to "explain the State's view of the legal basis for the Mississippi Supreme Court decision" adding that the Attorney General viewed that decision as "unclear." Similarly, the Committee's submission complained that Mississippi would be unable to show that a chancery court judge who imposes any future redistricting plan on the state "will have been chosen by a method which guarantees equal influence by all racial groups[.]" The Attorney General parroted this concern in his February 14th letter, asking the State to "describe any safeguards in place that a particular Chancery Court judge who creates and imposes a state-wide redistricting plan has him/herself been selected in a manner

reflecting the political influence of the State's minority populations."

The Attorney General used his authority under the Voting Rights Act to solicit information that was irrelevant to the plan's purpose and effect, and he used arguments made by one of the partisan litigants to craft his letter. The Attorney General refused to issue his preclearance decision, and he instead issued a request to the state to provide answers to questions being posed by one of the political party litigants. Such actions lend the appearance that the Attorney General relinquished his role as an independent decisionmaker. But, most fundamentally, as in *Garcia*, the Attorney General impermissibly "dragged out" the preclearance process by inappropriate employment of the "request for additional information" procedure. Thus, by virtue of the Attorney General's failure to properly interpose a timely objection, the state court plan should be declared precleared and validly enforceable.

B. THE UNIQUE AND IMPROPER MANNER IN WHICH THE ATTORNEY GENERAL HANDLED THE MISSISSIPPI CONGRESSIONAL REVIEW IS CONFIRMED BY HIS SUBSEQUENT HANDLING OF A COMPARABLE SUBMISSION FROM NORTH CAROLINA.

The Attorney General's dilatory handling of the Mississippi submission stands in sharp contrast to his expedited review and preclearance of North Carolina's legislative plans just a few months later. In North Carolina, a state court judge invalidated North Carolina's state senate and state house maps that had been enacted by a Legislature controlled by Democrats. The state court judge then drew his own plans and submitted those plans for Section 5

preclearance to the Attorney General on June 5, 2002.[10] On June 28, 2002, the state judge voluntarily provided supplemental information to the Attorney General about the plans. And on July 12, 2002, the Attorney General precleared the maps. The Attorney General's preclearance came just 14 days after the state court judge had completed his submission of the plans to the Attorney General and only 30 days after the state court judge initially submitted the two plans for preclearance.

But the difference in the Attorney General's handling of the Mississippi and North Carolina submissions goes beyond the time period involved in conducting his review. Both plans were drawn by a state court. While in the Mississippi submission the Attorney General considered the exercise of state court jurisdiction to be a change subject to Section 5 preclearance requirements, the Attorney General apparently failed to consider the North Carolina state court's exercise of jurisdiction to be a voting-related change requiring preclearance. To be sure, if the first time exercise of jurisdiction by a state court over a statewide redistricting case were a change in Mississippi, then the first time exercise of jurisdiction by a state court of jurisdiction over a statewide redistricting case in North Carolina would have been a change as well.[11]

Furthermore where the Attorney General had written to Mississippi requesting extensive information about the state court system, its judges, and even the propriety of a state court-ordered plan, see p.12, *supra,* he failed to pose a single question about the North Carolina judicial system or

[10] The letter of submission from the North Carolina state court judge is reproduced in the appendix to this brief as App. B.

[11] *Amici* have been unable to find a single case decided by a North Carolina state court prior to 2002 in which a state trial court exercised jurisdiction over any statewide redistricting case.

the implications of a single judge ordering into effect a state court plan.[12] Moreover, although the Attorney General had regarded the exercise of jurisdiction by the Mississippi Chancery Court as a change under Section 5 (and presumably used that as a basis for his February 14, 2002 letter), the Attorney General never raised that as an issue in the North Carolina submission. The Attorney General's inconsistent approach to handling these two similar submissions is striking.[13]

C. THE ATTORNEY GENERAL'S REQUEST FOR INFORMATION FROM MISSISSIPPI ALSO DIFFERED SUBSTANTIVELY FROM THE INFORMATION THAT HE USUALLY HAS SOUGHT FROM STATES REGARDING THEIR REDISTRICTING PLANS.

The Attorney General's request for additional information from Mississippi differed significantly from his usual requests for additional information in his post-2000

[12] Like Mississippi, North Carolina elects its trial judges. See *Republican Party of North Carolina v. Martin*, 980 F.2d 943 (4th Cir. 1992).

[13] This is not to suggest that the Attorney General's actions in granting immediate preclearance to North Carolina's state court map, with no questions asked, lacked political motivation. Indeed, the opposite may have been true. As noted above, the legislative plans invalidated by the state court in North Carolina had been drawn by the North Carolina Legislature, where Democrats control both chambers. Democrats hold a slim majority of the seats in the North Carolina House (see ***http://www.ncsl.org/ncsldb/elect98/partcomp.cfm?yearsel=2002)***. The new legislative maps imposed by the state court judge were ordered in a lawsuit brought by North Carolina Republicans, and the state court's decision there has been widely reported as favorable to Republicans. See, Sharif Durhams, *Judge's Districts May Yield GOP Edge*, Charlotte Observer, June 1, 2002, p.1A; and Lynn Bonner, *Maps rejected*, The Raleigh News & Observer, June 1, 2002, p. A1.

Section 5 review of other statewide plans. As noted above, see p. 10, *supra*, aside from Mississippi, the Attorney General only asked for more information in connection with two other statewide maps, Arizona's legislative plan and the Louisiana senate plan. In the case of Arizona, for example, the letter seeking additional information asked for election data, voter turnout data, registered voter data and other basic information properly needed to evaluate minority voting strength under the map.[14] Similarly, the Attorney General's letter to Louisiana asked for information about the plan's demographics, alternative plans considered, minutes and transcripts of legislative activity about the plans, and election data.[15]

In both Arizona and Louisiana, the information sought by the Attorney General was clearly necessary to measure minority voting strength under the proposed plans--the only issue that the Attorney General is obliged to consider under section 5. The fact that the Attorney General's additional information letter to Mississippi deviated so substantively from the ordinary and relevant types of information that the Attorney General customarily seeks when he makes a decision to seek more information suggests a flawed review process. The improprieties of the review process are revealed by the fact that the Attorney General has not normally sought such additional information from States about their statewide maps in the post-2000 cycle, but chose to do so in Mississippi.

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[14] The Attorney General's letter sent to Arizona officials requesting additional information is reproduced in the appendix to this brief as App. C.

[15] The Attorney General's letter sent to Louisiana officials requesting additional information is reproduced in the appendix to this brief as App. D.

D. THE ATTORNEY GENERAL'S FAILURE TO ISSUE A PROMPT SECTION 5 DECISION TO MISSISSIPPI STANDS IN SHARP CONTRAST TO HIS EXPEDITED REVIEW IN OTHER SECTION 5 COVERED STATES.

The length of time that the Attorney General took to review Mississippi's state court map also raises concerns about the review process. In nearly every other statewide map reviewed by the Attorney General under Section 5, the Attorney General acted quickly once he had all information necessary to make a decision. As noted above, see note 2 *supra*, *amici* have compiled a chart of all the statewide submissions made by states in the post-2000 cycle that are subject to the preclearance requirements of Section 5. This chart shows that once the Attorney General had received all information from a state concerning its statewide plan, the average amount of time it took the Attorney General to make his preclearance determination was merely 23 days.[16] This is in sharp contrast to the time line in Mississippi, where the Attorney General received a complete submission from Mississippi on December 26, 2001, and failed to make a Section 5 determination about the plan either within the initial 60 days after he received the submission, or within

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[16] Because some states subject to Section 5's preclearance requirements are only partially covered, *amici* have also compared the Attorney General's untimeliness in Mississippi to submissions from states that are, like Mississippi, fully subject to Section 5. In these other fully covered states (Alabama, Alaska, Arizona, Louisiana, Texas and Virginia), the average time it took the Attorney General to make his Section 5 determination was 25 days. Even if the comparison is further limited to states that were fully covered and submitted congressional plans to the Attorney General (*i.e.*, Alabama, Arizona, Louisiana, and Virginia), the average length of time for the Attorney General to issue a preclearance decision was only 44 days. App. A. Each of these states has more congressional districts than Mississippi.

sixty days of receiving the information sent to him by the State in reply to his February 14, 2002 letter requesting information.[17] This type of procedural departure from the norm is further proof of a flawed process.

E. THE INFORMATION SOUGHT FROM MISSISSIPPI DEVIATED FROM INFORMATION IDENTIFIED AS RELEVANT BY THE ATTORNEY GENERAL IN HIS OWN GUIDELINES.

In preparation for the post-2000 cycle, the Attorney General issued redistricting guidelines in January 2001 to state and local governments subject to the Act's preclearance requirements. These guidelines, entitled "*Guidance Concerning Redistricting and Retrogression Under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c,*" (hereafter, "2001 Redistricting Guidelines") explained how the Department of Justice would analyze redistricting plans and the information that would be utilized by Department staff to conduct such an analysis. See Federal Register: January 18, 2001 (Volume 66, Number 12) pp. 5411-5414.

The 2001 Redistricting Guidelines made clear that the Attorney General's focus under Section 5 was to determine retrogression by comparing the proposed redistricting plan to the existing (*i.e.*, benchmark) plan. With regard to the information that the Attorney General would need to make the retrogression comparison, the 2001 Redistricting Guidelines list as relevant information "boundaries" of districts, "population data", "demographic and election data",

[17] *Amici* agree with appellants that even if this court concludes that the Attorney General did not preclear the congressional map because he sought additional information within the first sixty days, his failure to object to the plan within sixty days of receiving a response to his February 14 letter resulted in preclearance of the plan by operation of law.

"election history" and "voting patterns."[18] This was precisely the kind of information that Mississippi had provided to the Attorney General in its December 26, 2001 submission. More importantly, none of the information that the Attorney General sought from Mississippi in the February 14th letter is identified as being relevant in the Attorney General's 2001 Redistricting Guidelines. Moreover, not a single item identified in the 2001 Redistricting Guidelines was among the items requested by the Attorney General's lengthy and unprecedented February 14th request for information. *Amici* submit that the Attorney General's demand that Mississippi provide information far beyond and not even contemplated by the Attorney General's own Redistricting Guidelines is further indication that the Attorney General abused his authority under the Voting Rights Act.

In sum, Mississippi made a complete submission of its congressional redistricting plan; the Attorney General admitted he had sufficient information to review it; and the Attorney General simply refused to do his duty and render a decision.[19] In this instance, the statute itself provides the answer as to the proper outcome. The redistricting plan is deemed precleared by operation of law. See 42 U.S.C. 1973c.

[18] Amici do not question the propriety of the Attorney General seeking such information to make the Section 5 determination. Indeed, such data would seem directly relevant to making the retrogression decision under Section 5.

[19] Amici have been unable to identify a single instance in which the Attorney General, over the last thirty-seven years of enforcing Section 5, has refused to make a Section 5 determination despite being in possession of all information needed to make the required preclearance decision.

F. THE ATTORNEY GENERAL'S REQUEST FOR ADDITIONAL INFORMATION TO MISSISSIPPI WAS FRIVOLOUS AND AN ABUSE OF HIS AUTHORITY UNDER THE VOTING RIGHTS ACT.

This is not the first time that the Attorney General's actions processing a preclearance submission under Section 5 have been challenged as unreasonable. In *Garcia v. Uvalde County, Texas*, *supra*, 455 F. Supp. 101, a three-judge court concluded that the Attorney General did not have the right to extend the 60-day review period by repeatedly requesting additional information on a piecemeal basis, even if the information being sought was relevant to the voting change at issue. In *Garcia v. Uvalde County*, the County submitted a redistricting plan for Section 5 preclearance to the Attorney General. After 58 days had elapsed, the Attorney General formally requested additional information from the County, and later requested additional information. When the Attorney General eventually objected to the redistricting plan, a three-judge court found that the Attorney General had improperly dragged out the preclearance process and that the plan had become precleared by operation of law. This Court summarily affirmed. *United States v. Uvalde County,* 459 U.S. at 1059.

We submit that just as the Attorney General may not drag out the process by repeatedly asking for more information, he similarly may not manipulate the timing of the Section 5 preclearance process by asking for additional, irrelevant information. Such conduct is unreasonable and an abuse of his authority under the Voting Rights Act.

CONCLUSION

This Court should reverse the judgment of the three-judge district court and remand the case with instructions to dissolve the injunction and dismiss the case.

Respectfully submitted,

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August 26, 2002

ADMINISTRATIVE DETERMINATIONS OF PRECLEARANCE BY THE ATTORNEY GENERAL OF STATEWIDE REDISTRICTING PLANS IN POST-2000 CYCLE[1]

State/Plan	Date Initially Submitted to AG	Date Submission Was Completed[2]	Date of Preclearance	Congressional Candidate Qualifying Deadline	Days Pending With AG After Submission Was Complete
Alabama				4/5/02	
Cong	2/1/02	2/20/02	3/04/02		12 days
House	9/5/01	9/27/01	11/5/01		39 days
Senate	8/16/01	9/18/01	10/15/01		27 days
Alaska[3]				6/1/02	
House	8/1/01	8/29/01	10/1/01		33 days
Senate	8/1/01	8/29/01	10/1/01		33 days
House	4/29/02	5/29/02	6/10/02		12 days
Senate	4/29/02	5/29/02	6/10/02		12 days
Arizona[4]				6/12/02	
Cong.	2/28/02	2/28/02	3/26/02		26 days
California				12/7/01	
Cong.	10/1/01	10/9/01	11/30/01		52 days
House	10/1/01	10/9/01	11/30/01		52 days
Senate	10/1/01	10/9/01	11/30/01		52 days
Florida[5]				7/19/02	
Cong.	5/1/02	5/28/02	6/7/02		10 days
Senate	5/1/02	6/12/02	6/20/02		8 days
Louisiana[6]				8/23/02	
Cong.	2/1/02	3/1/02	4/2/02		32 days
Senate	2/6/02	5/16/02	7/2/02		47 days
Michigan				5/14/02	
Cong.	12/14/01	2/4/02	2/11/02		7 days
House	12/14/01	2/4/02	2/11/02		7 days
Senate	12/14/01	2/4/02	2/11/02		7 days

[1] This chart was prepared using all of the post-2000 preclearance letters of statewide plans obtained from the United States Department of Justice, and is complete through August 1, 2002. Copies of these letters are being lodged with the Clerk of this Court. Qualifying deadlines for congressional districts were obtained from state election codes.

[2] In most cases, States make an initial submission of a redistricting plan and then voluntarily supplement the submission with additional information. Once all the information has been submitted to the Attorney General that is needed to make an administrative determination, the submission is deemed complete by the Attorney General and the sixty-day period for review of the plan begins on this date. Accordingly, this date was used to calculate how long a completed submission was pending before the Attorney General because it was, according to the preclearance letter sent by the Attorney General, the last date on which the State supplemented its submission to the Attorney General with additional information about its redistricting plan.

[3] Alaska has only one congressional seat; thus, there was no congressional redistricting in that state.

[4] Arizona's legislative maps were the subject of an objection by the Attorney General. See http://www.usdoj.gov/crt/voting/sec 5ltr/1 052002.htm

[5] Florida's House plan was the subject of an objection by the Attorney General. See http://www.usdoj.gov/crt/voting/sec 5ltr/1 070102htm.

[6] Louisiana's House plan is pending before the District of Columbia court for judicial preclearance.

State/Plan	Date Initially Submitted to AG	Date Submission Was Completed	Date of Preclearance	Congressional Candidate Qualifying Deadline	Days Pending With AG After Submission Was Complete
Mississippi				3/1/02	
Cong.	12/26/01		no decision		* * * *
House	4/17/02	5/30/02	6/17/02		18 days
Senate	4/17/02	5/30/02	6/17/02		18 days
New Hampshire					
Cong.	4/12/02	5/7/02	6/10/02	6/14/02	34 days
New York				7/11/02 (postponed by court order)	
Cong.	6/11/02	6/17/02	6/25/02		8 days
House	5/01/02	6/3/02	6/17/02		14 days
Senate	5/01/02	6/3/02	6/17/02		14 days
North Carolina				3/1/02 (postponed by court order)	
Cong.	12/17/01	12/17/01'	2/15/02		60 days
House	12/11/01	1/31/02	2/11/02		11 days
Senate	12/3/01	1/31/02	2/11/02		11 days
House	6/12/02	6/28/02	7/12/02		14 days
Senate	6/12/02	6/28/02	7/12/02		14 days
South Dakota[7]				4/2/02	
House	5/19/02	6/5/02	7/19/02		44 days
Senate	5/19/02	6/5/02	7/19/02		44 days
Texas[8]				1/3/02	
Senate	8/17/01	10/3/01	10/15/01		12 days
Virginia				4/12/02	
Cong.	8/17/01	9/14/01	10/16/01		32 days
House	5/02/01	6/4/01	6/15/01		11 days
Senate	5/11/01	6/7/01	7/9/01		32 days

Note: Two States subject to the preclearance provisions of Section 5 did not make submissions of statewide plans to the Attorney General: Georgia (which submitted its three statewide plans for judicial preclearance to a three-judge district court in the District of Columbia (see *Georgia v. Ashcroft*, 204 F.Supp.2d 4 D.D.C. 2002)), and South Carolina (where all three statewide plans were drafted by a federal court after state authorities failed to enact maps (see *Colleton County Council v. McConnell*, 201 F.Supp.2d 618 D.S.C. 2002)).

In addition, North Carolina and Alaska's 2001 legislative maps were struck down by state courts and replaced with new plans, which were precleared.

[7] South Dakota has only one congressional seat: thus, there was no congressional redistricting in that state.

[8] Texas' congressional map was drawn by a three-judge federal court. Texas' House plan was the subject of an objection by the Attorney General under Section 5. See http://www.usdoj.gov/crt/voting/sec. 5/ltr/1 111601.htm.

APP. B

[SEAL]

State of North Carolina

General Court of Justice
Superior Court District 11B

KNOX V. JENKINS JR.
SENIOR RESIDENT
SUPERIOR COURT JUDGE

P.O. BOX 2739
SMITHFIELD NC 27977

TELEPHONE (919) 989-5629
FAX: (919) 934-1760

June 5, 2002

Mr. Joseph Rich
Chief, Voting Rights Section
Civil Rights Division
U.S. Department of Justice
Washington, DC

Attention: Mr. Chris Herren

Dear Mr. Rich:

In its ruling in *Stephenson v. Bartlen*, the North Carolina Supreme Court named the Superior Court of Johnston County, North Carolina, as having jurisdiction over this matter.

I am herewith transmitting court orders regarding this matter, including my orders of May 31, 2002 (principal order and its amendment), which codified new, Court-drawn interim redistricting plans for the NC House and Senate to be used for the 2002 elections cycle.

Hereby, I am requesting pre-clearance, under Section 5 of the Voting rights Act, for "Interim House Redistricting Plan for NC 2002 Elections" and "Interim Senate

Redistricting Plan for NC 2002 Elections". Enclosed are reports detailing the Census 2000 demographic statistics for each of the 120 House and 50 Senate districts, tables of population variances, and tables showing the - racial composition of the districts in comparison to the Sutton 3 and Constitutional VRA Senate redistricting plans pre-cleared by your department late last year. A CD-ROM containing maps images of these new interim House and Senate districts and associated "block equivalencies" is also provided herewith.

Given the fact that the North Carolina 2002 election schedule is already significantly behind schedule, this court would appreciate your expeditious review and pre-clearance of these interim plans so the people of North Carolina will be able to cast their ballots in a timely manner. This court has appointed Mr. Marshall L. Turner, Jr., of Upper Marlboro, Maryland to serve as the Court's preclearance agent to assist the Court in seeking preclearance. Mr. Turner has been in touch with Mr. Herren and you and stands ready to answer any questions you may have, as do I.

Thank you for your attention to this matter of urgent interest to the North Carolina electorate.

Yours truly,

/s/ Knox V. Jenkins, Jr.
Honorable Knox V. Jenkins, Jr.

[SEAL] **APP. C**

U.S. Department of Justice
Civil Rights Division

Voting Section, NWB.
950 Pennsylvania Avenue, N. W.
Washington, DC 20530

JDR;JR;ALP 3 dh
DJ 166-012-3

2002-0586

April 8, 2002

The Honorable John J. Hainkel, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

Dear Senator Hainkel:

This refers to Act No. 1 of the 2nd Extraordinary Session of 2001 of the Legislature of Louisiana, which provides the redistricting plan for the Louisiana State Senate, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on February 6, 2002.

Our analysis indicates that the information sent is insufficient to enable us to determine that the proposed plan does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, as required under Section 5. The following information is necessary so that we may complete our review of your submission:

1. Please provide the following: (a) all instructions or directions given to the demographer(s) regarding the development of alternative and proposed plans; (b) all

discussions, whether formal or informal, involving any state official, employee, or the demographer(s) concerning the relative merits and demerits of alternative and proposed plans; (c) the circumstances in which each alternative or draft plan was presented or considered by any state officials, and the reason(s) why each alternative was rejected. Please provide copies of any alternative or draft plans that were devised, considered, discussed, or announced, whether formally or informally, by any state official or employee, demographer/consultant, member of the public, or organization, including 2000 Census total and voting age population and voter registration data by race for all plan(s) considered by the state, by race and by district, along with a map depicting the boundary lines, for each such plan. You may omit any information that you have previously provided.

2. A current map, preferably a 2000 Census map, that shows the residence of each incumbent member of the Senate.

3. A detailed explanation for decreasing the black total and voting age populations in proposed District 7 and what, if any, consideration was given to the effect of the reductions on black electoral opportunity. If the state relied on any studies and/or analyses to conclude that black residents were not able to elect candidates of their choice in this district under the benchmark plan, please provide a copy of these studies and/or analyses.

4. Copies of minutes or transcripts of the House floor debate on the final passage of the redistricting legislation and the following House or Senate documents that refer or relate to the proposed change; (a) all documents, including notes, memoranda, summaries, minutes, tapes and

transcripts of all informal discussions, meetings and hearings; (b) all newspaper articles, editorials, letters to the editor, arid advertisements, as well as any other publicity, that address or describe the proposed change. You may omit sending transcripts of public hearings and newspaper articles on the proposed redistricting plan that you may have already provided.

5. The election returns you provided with your initial submission were incomplete. As set forth below, please provide election returns noting: each candidate's name and race; the total number of persons who voted and the number of black persons who voted, by precinct; and the number of registered voters, by race and voting precinct, at the time of the election. If such registration data are unavailable, provide an estimate of the black population percentage by precinct at the time of the election and the basis for any such estimate.

a. With regard to elections conducted within either the benchmark or proposed District 7, please provide the information detailed above for all elections for all state offices since 1992; and

b. For elections conducted in all other districts, please provide the information detailed above for *those* in which a black candidate ran for office.

The Attorney General has sixty days to consider a completed submission pursuant to Section 5. This sixty-day review period will begin when we receive the information specified above. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.37). However, if no response is received within sixty days of this request, the Attorney General may object to the proposed changes consistent with the burden of proof placed upon the

submitting authority. See 28 C.F.R. 51.40 and *51.52(a)* and (c). Changes which affect voting are legally unenforceable unless Section 5 preclearance has been obtained. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10. Therefore, please inform us of the action the State of Louisiana plans to take to comply with this request.

If you have any questions concerning this letter or if we can assist you in obtaining *the* requested information, you should call Ms. Autumn Payne (202-514-6335) of our staff. Refer to File No. 2002-0586 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,

Joseph D. Rich
Chief, Voting Section

[SEAL] **APP. D**

U.S. Department of Justice
Civil Rights Division

Voting Section, NWB.
950 Pennsylvania Avenue, N. W.
Washington, DC 20530

DR RPL : **BLA**:LLO: SLL : nj : **j** dh
DJ 166-012-3
2 002-0276

March 26, 2002

Lisa T. Hauser, Esq.
Gammage & Burnham
Two North Central Avenue, 18th Floor
Phoenix, Arizona 85004-4402

Jose De Jesus Rivera, Esq.
Haralson, Miller, Pitt & McAnally
3003 North Central, Suite 1400
Phoenix, Arizona 85012-2151

Dear Ms. Hauser and Mr. Rivera:

This refers to the 2001 legislative redistricting plan for the State of Arizona, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on February 28, 2002; supplemental information was received through March 19, 2002.

Our analysis indicates that the information sent is insufficient to enable us to determine that the proposed change does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority

group, as required under Section 5. The following information is necessary so that we may complete our review of your submission:

1. A listing of each voting precinct used by Maricopa, Pirna, Pinal, Cochise, Santa Cruz, Gila, La Paz, and Yuma Counties in 1998 and 2000 elections and their district assignment in the benchmark plan and in the proposed plan.

We note that the statewide voter registration file that you provided to us on February 28, 2002, has a data field for 2000 precinct assignments to the proposed plan; however, that category was approximately 80 percent incomplete. We also note that the underlying data for the competitiveness conclusion in Appendix 30(F-1) of your submission appear to be drawn from precinct-level data. Please provide copies of all documents, data, and information used to prepare Appendix 30(F-1).

2. Election returns, by voting precinct, for Maricopa, Pima, and Pinal Counties, for all county-wide elections in which Hispanic, Native American, and African-American candidates participated during the 1998 and 2000 primary and general elections. For each election, indicate: (a) the office/position sought (indicate the incumbent(s), if any, and whether the incumbent was elected or appointed); (b) each candidate's name and race/ethnicity; (c) the number of votes each candidate received, by voting precinct (indicate the winners and those who went to a runoff); (d) * the total number of registered voters, by race/Spanish surname and by voting precinct, at the time of the election; and the total number of registered voters by race/Spanish surname who cast a ballot in each precinct; and (e) a map showing the precinct boundaries for each election. If

registered voter data are unavailable for any election, provide voting age population by race/ethnicity by voting precinct. To the extent that the state has already provided some of the requested information in the required formats, it need not be resubmitted. In that regard, we note that some of the election returns already provided lack an appropriate data dictionary and none of the county returns identify candidates by race or provide the information requested in subpart (d) above.

Any data in an electronic format that the state provides in response to this request should follow the format specified in the Procedures 28 C.F.R. 51.20(b) and include a relevant data dictionary or dictionaries with the election returns

3. Please provide the factual basis for the state's conclusion that Hispanics and other racial minority groups encompassed in the state's "total minority" category as identified by your submission will vote cohesively in both primary and general elections under the proposed plan. In particular, detail how the voting patterns in proposed Districts 13, 14, 15, 16, 27, and 29 support the claim that minorities under the proposed plan will have effective exercise of the electoral franchise. Provide copies of any documents, data, studies, and/or analyses, etc., considered by the state in reaching this conclusion.

4. Provide the factual basis, including copies of any documents, data, studies, and/or analyses, etc., that the state relied on in reaching the conclusion that, as a result of the reduction in the number of districts in which minority citizens can elect candidates of their choice, the plan will not result in a retrogression in their position with respect to the effective exercise of the electoral franchise. In particular, with regard to the proposed districts in Maricopa, Pima, and Pinal Counties, detail the extent of

the state's consideration to the following factors in reaching this conclusion: total minority population; minority voting-age population; total Hispanic population; Hispanic voting-age population; and data concerning electoral behavior and participation, such as voter registration information, Spanish surname voter registration, voter turnout data, and election returns.

The Attorney General has sixty days to consider a completed submission pursuant to Section 5. This sixty-day review period will begin when we receive the information specified above. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.37). However, if no response is received within sixty days of this request, the Attorney General may object to the proposed change consistent with the burden of proof placed upon the submitting authority. See 28 C.F.R. 51.40 and 51.52(a) and (c). Changes which affect voting are legally unenforceable unless Section 5 preclearance has been obtained. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10. Therefore, please inform us of the action the State of Arizona plans to take to comply with this request.

If you have any questions concerning this letter or if we can assist you in obtaining the requested information, you should call Mr. Bruce L. Adelson (202-514-1049) an attorney in the Voting Section. Refer to File No. 2002-0276 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,

Joseph D. Rich
Chief, Voting Section